

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2829 of 1987

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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HARIJAN RAMJI JAKHU

Versus

STATE OF GUJARAT  
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Appearance:

MR CH VORA for Petitioners  
M/S PATEL ADVOCATES for Respondent No. 1  
MR VM PANCHOLI AGP for Respondent Nos. 2&3-State  
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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 01/03/2000

ORAL JUDGEMENT

Heard the learned advocates.

2. The petitioners before this Court are the Daily  
Wage employees serving under the respondent nos. 2 & 3.  
Petitioners claim that they have been serving as a daily

wage employees for a long time and in view of the Government Resolution dated 4th July, 1973, they are entitled to be absorbed on the work-charge establishment. Therefore, the petition.

3. Pending this petition, I am informed, the petitioner no. 4 has died on 22nd February, 1994. However, his heirs and legal representatives have not been brought on the record. The petition in respect of the petitioner no. 4 has thus become infructuous. No relief can be granted in favour of the dead person. I am also informed that the petitioners nos. 2 & 3 have retired from service and have received retiral benefits, are receiving the monthly pension also .

4. Mr. Vora has relied upon the Government resolution dated 4th July, 1973. By the said resolution, the Government has issued instructions to the effect that in the Public Works Department, appointment to the work-charge establishment shall be made from amongst the daily wage employees, considering the length of their service. The persons appointed on work-charge establishment shall atleast have rendered five years service on daily wage. For making appointment to the post of work-charge establishment, the recruitment rules governing the appointment to the like post in the regular establishment shall be taken into consideration. Mr. Vora has submitted that all the petitioner having completed five years' service as daily wagers, were entitled to appointment on work-charge establishment, however, their cases have not been considered. Besides, he has relied upon the Government Resolution dated 17th October, 1988 whereunder certain benefits of permanent employment have been conferred upon the daily wage employees like wage increase with the time-scale, leave, paid holidays, etc.

Mr. Pancholi has submitted that all the petitioners having completed five years' service on daily wages, their names were recommended to the State Government for being appointed on the work-charge establishment, however, the Government, as a policy decision, has stopped all the appointments on the work charge establishment, and therefore, petitioners could not be absorbed on the work-charge establishment.

On perusal of the Resolution dated 4th July, 1973, it appears that the Government had decided to fill-in the posts on work-charge establishment by making appointment of daily wage employees who had completed five years' service. Thus, those daily wage employees

who had completed five years' service on daily wage have a right to be considered for appointment on work charge establishment, however, they cannot claim such appointment as of right. Further, it does appear that petitioners have served in more than one Sub-Division and in absence of the entire service record, their names could not be forwarded for consideration for appointment on work charge establishment, while some of the workmen who were junior to the petitioners were recommended for such appointment and were also appointed. It, therefore, cannot be said that the petitioners have been denied the legitimate right for being considered on the work charge establishment. Since the petitioners nos. 2 & 3 have retired from service, no relief for absorption on the work charge establishment can be granted to them. It, however, appears that the said two petitioners have been given the benefit of permanency under the above referred Government Resolution dated 17th October, 1988 and have accordingly been paid the retiral benefits also. Mr. Vora shall unable to say whether the petitioner no. 1 has been paid such benefits or not.

Be that as it may, on the facts of the present case, the ends of justice shall be met if the respondents are directed to confer the benefit of the Government Resolution dated 17th October, 1988 upon the petitioners herein, if already not given. The respondents-authorities are, therefore, directed to examine the cases of all the three writ petitioners for grant of the benefit of the Government Resolution dated 17th October, 1988 and if such benefits are not conferred upon the petitioners, the same shall be conferred within a period of two months from today.

Petition is accordingly allowed. Rule is made absolute to the aforesaid extent only. The parties shall bear their own costs.

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Prakash\*